

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service)	CG Docket No. 10-51
)	
Telecommunications Relay Services and Speech-)	CG Docket No. 03-123
to-Speech Services for Individuals with Hearing)	
and Speech Disabilities)	
)	

**THE REGISTRY OF INTERPRETERS FOR THE DEAF, INC.
REPLY COMMENTS TO FURTHER NOTICE OF PROPOSED RULEMAKING
ON STRUCTURE AND PRACTICES OF THE
VIDEO RELAY SERVICE (VRS) PROGRAM**

The Registry of Interpreters for the Deaf, Inc. (RID) respectfully submits these reply comments in response to the Federal Communications Commission’s (“Commission”) Further Notice of Proposed Rulemaking (“*FNPRM*”) in the above-referenced proceedings.¹ RID implores the Commission to focus on the goal of functional equivalency and be mindful of the impact that any changes or reforms will have on interpreters’, who the Commission refers to as Communication Assistants or CAs, ability to support the equal participation of all parties in VRS calls.

¹ *In the Matter of Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket Nos. 10-51 and 03-123, FCC 13-82 (rel. June 10, 2013) (“*FNPRM*”).

As detailed in our initial comments,² RID believes the definition of "functional equivalence" cannot be measured solely by speed of answer and interoperability. Instead, functional equivalence must be measured based on the overall success of the call. In response to this *FNPRM* and in previous invitations to comment, commenters have weighed in on the costs of certain changes and regulations. In our comments, we raised concerns that the Commission's narrow definition of cost (i.e. dollars and cents) will lead to the degradation of the quality of VRS. The degradation of interpreter quality and the availability of qualified interpreters are costs the Commission must weigh when considering changes to Video Relay Service. Interpreters are at the front lines of providing a functionally equivalent VRS and until interpreting is recognized as a core service of VRS, the Commission will continue to struggle to provide a functionally equivalent video relay service.

I. An Auction to Establish a Per Minute Rate for Interpreter Service Based Solely on Price will Undercut the Functional Equivalency of VRS

RID is concerned that any auction for interpreter service that primarily focuses on price will subvert the goal of functional equivalency by minimizing the significance of non-monetary costs. While some commenters recognized that a price-based auction would create degradation in interpreter quality, others ignored the issue entirely. We reiterate that interpreters are at the front lines of providing a functionally equivalent VRS. While in theory the interpreter is a transparent conduit, the Commission must recognize interpreting as the core service provided to VRS consumers and be aware of the impact the proposed auction will have on the ability of VRS companies to recruit and retain interpreters qualified to provide functionally equivalent service. We are also concerned that the Commission has rejected both interpreter certification standards

² Comments of the Registry of Interpreters for the Deaf, Inc. in Response to Further Notice of Proposed Rulemaking on Structure and Practices of the Video Relay Service (VRS) Program, CG Docket Nos. 10-51 and 03-123 (filed Aug. 19, 2013).

and skill-based routing, which could serve as safeguards to provide an appropriate level of quality of service.

We encourage the Commission to consider the Federal Acquisition Regulation (FAR) definition of “best value” when weighing the feasibility of an auction for interpreter service. The FAR defines “best value” as “the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement.”³ We do not believe that that proposed auction will adequately measure the greatest overall benefit in the absence of safeguards to protect the integrity of interpreting services. The mandate of functional equivalency cannot be achieved if the primary focus of the Commission is to cut prices, even when the cost of lower prices is lower quality of interpreter services.

VIII. NON-COMPETITION AGREEMENTS IN VRS INTERPRETER EMPLOYMENT CONTRACTS ARE UNREASONABLE AND UNDERMINE FUNCTIONAL EQUIVALENCE

RID reiterates our opposition to the use of non-competition agreements in VRS interpreter contracts. In their comments, Sorenson states, “Rather than expend resources on identifying and training new interpreters, Sorenson’s competitors would seemingly prefer to recruit Sorenson-trained interpreters.”⁴ This statement leads us to believe that the issue is not employee training but rather employee retention. We believe that the use of non-competition agreements to forcibly retain employees is unreasonable and undermines functional equivalency by limiting the pool of qualified interpreters available to work in the VRS industry.

³ 48 C.F.R. § 2.101 (2012)

⁴ Comments of Sorenson Communications, Inc. in Response to Further Notice of Proposed Rulemaking on Structure and Practices of the Video Relay Service (VRS) Program, CG Docket Nos. 10-51 and 03-123, page 76 (filed Aug. 19, 2013).

Sorenson further explains that non-competition agreements “provide Sorenson with a minimal assurance that after expending significant resources on training, a Sorenson interpreter will remain with Sorenson for a *reasonable amount of time*.”⁵ (Emphasis Added.) First, Sorenson does not explain what constitutes a “reasonable amount of time.” Second and more importantly, these non-competition agreements dictate that amount of time an interpreter is precluded from working in VRS, not how long the interpreter must remain with Sorenson after receiving training.

The use of non-competes is particularly dangerous in light of the U.S. Department of Labor prediction that the “demand for American Sign Language interpreters is expected to grow rapidly, driven by the increasing use of video relay services, which allow people to conduct online video calls and use a sign language interpreter.”⁶ There are a finite number of interpreters qualified to work as VRS interpreters so any restriction on when and where these individuals work creates an artificial decrease in the supply of VRS interpreters. As a result, under qualified or unqualified interpreters may be hired by VRS providers, thereby undercutting the goal of functional equivalency.

IX. VRS INTERPRETERS SHOULD BE ALLOWED TO WORK FROM PERSONAL OFFICES (OFF-SITE)

In their comments, Consumer Groups stated that if interpreters are allowed to work from home during overnight hours, then “the Commission should (1) impose strict requirements for the environment for home offices to maintain confidentiality such as requiring that [interpreters] have a dedicated enclosed room for providing the service and (2) not relax the technical

⁵ *Id.* at 77.

⁶ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, 2012-13 Edition*, Interpreters and Translators, on the Internet at <http://www.bls.gov/ooh/media-and-communication/interpreters-and-translators.htm> (visited *March 15, 2013*).

standards that currently apply to calls centers for those [interpreters] working at home.”⁷ We wholeheartedly agree and reiterate that guidelines and safeguards must be put in place to protect the health and safety of the interpreter, the experience of the consumer, and the integrity of VRS. RID recommends expectations of interpreters who work from personal offices to include access to appropriate teaming, debriefing, case conferencing, and methods to ensure ethical standards, like those expected of RID members through the NAD-RID Code of Professional Conduct (CPC).

X. CONCLUSION

RID respectfully requests that the Commission consider the points discussed herein and in our initial Comments when considering ways to improve the structure and efficiency of the VRS program.

Respectfully Submitted,



Shane H. Feldman
Executive Director

Dated: September 18, 2013

⁷ Comments of Consumer Groups in Response to Further Notice of Proposed Rulemaking on Structure and Practices of the Video Relay Service (VRS) Program, CG Docket Nos. 10-51 and 03-123 (filed Aug. 19, 2013).